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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/606,567 | 06/26/2003 | Lars Ploug-Soerensen | 6495-32 | 4713 |

7590 06/24/2005

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EXAMINER

SHAH, KAMINI S

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2142

DATE MAILED: 06/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 10/606,567 | Applicant(s) PLOUG-SOERENSEN ET AL. | |
| | Examiner Kamini S. Shah | Art Unit 2142 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 5-8 is/are rejected.
- 7) ☒ Claim(s) 2-4, 9 and 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see remarks, filed 3/30/05, with respect to the rejection(s) of claim(s) 1, and 5-8 under 35 USC 103. Eguchi is not prior art under 102(a), 102(b) or 102(e) and it is improper to cite to Eguchi under 103(a), have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Eguchi et al JP 2002-318145 filed on 4-20-2001.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1, 5-8 rejected under 35 U.S.C. 103(a) as being unpatentable over Eguchi et al (JP 2002-318145, filing date 04-20-2001)

Regarding to claimed invention, Eguchi et al discloses a method for measuring flow by means of an ultrasonic flow meter, see abstract, lines 1-3, the method comprising: step of transmitting ultrasonic signal in an upstream and a downstream direction, such as transmitter 5 drives the first and second ultrasonic wave oscillators 2, 3 to transmit an ultrasonic wave, see figure 1; initiating a time measurement at a starting time upon a receipt sonic signal and stopping time, such as time counter 10 measures the duration of time while repeating unit 9 counts the predetermined number of the signals output from the judging unit 8, and a propagation time measuring unit 13b measures a propagating duration of the ultrasonic wave based on a start signal from the controller for starting transmitting the ultrasonic wave and the signal output form the judging unit , see paragraphs 0053-0057, and also see figure 3 and appropriate text. Eguchi et al discloses operation of flow meter with time difference measuring unit, however, Eguchi et al. does not specifically discloses the first series of transmissions is inside the reference band as claimed. However, it is know to those skill artisans that ultrasonic flow meters are able to cope with wide span of the time difference and the time difference changes according to the reference voltage. Therefore, it would have been obvious to one of the ordinary skill in the art to make transmission in accordance with the reference voltage.

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Regarding claim 5, Eguchi et al discloses controller and judging unit and discloses timely manner resolutions defined by controller as paragraph 0055.

Regarding claims 6 and 7, Eguchi et al discloses first starting time and first positive zero crossing point, as in paragraph 0059.

Regarding claim 8, such as first starting time in the first transmission is fixed value, Eguchi discloses the range of reference voltage enables the judging unit to detect specified time in signal, see paragraph 0059.

Allowable Subject Matter

4. Claims 2-4 and 9-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

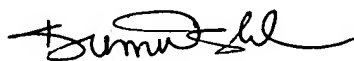
The cited prior art does not disclose a second series of transmission where the starting time in each transmission is incremented or decremented until the time period between the starting time and stopping time is approximately equal to a multiple of half of the time period of the ultra sonic signal, but preferably equal to the time period.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kamini S. Shah whose telephone number is 571-272-2279. The examiner can normally be reached on IFP.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew B. Caldwell can be reached on 571-272-3868. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kamini S Shah
Primary Examiner
Art Unit 2142

kss